

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 23, 1891.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 5319.]

The Committee on Military Affairs to whom was referred the bill (H. R. 5319) entitled "An act to remove the charge of desertion from the record of Allen S. Thatcher," have had the same under consideration and report it back favorably, recommending its passage.

There appears to have been no authority in law for favorable action by the War Department on this case, the desertion alleged having exceeded 4 months, and hence not embraced in the limit fixed by acts of 1886, 1889 allowing the Department to consider applications on their merits.

The facts appear to be as follows: Petitioner enlisted September 3, 1861, for 3 years in Company E, Ninth Indiana Infantry Volunteers. He served faithfully therein until October 1, 1862, when he left his company and regiment because, as he claims, he enlisted as a fifer, and at the date of his desertion he was ordered into the ranks to carry a gun and do a regular soldier's duty. April 11, 1863, he again enlisted without bounty in Company K, Third Michigan Cavalry, and served faithfully until regularly mustered out with his company, February 12, 1866, making a total service of 3 years and 10 months, and only an absence of 6 months during the entire period of the war.

Your committee think, in view of the long and faithful service of this soldier, he should be granted an honorable discharge.

The fact of an early reënlistment and service of 3 years and 8 months, in connection with the reason given for deserting his first regiment, is indicative of anything but an intent to desert for the purpose of avoiding service.

The report of the Adjutant-General of the Army is as follows:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, March 14, 1888.

SIR: I have the honor to return House bill 4085, Fiftieth Congress, first session, authorizing the removal of the charge of desertion against, and the issue of an honorable discharge to, Allen S. Thatcher, Company E, Ninth Indiana Volunteers, transmitted by the chairman of the House Committee on Military Affairs, and, in compliance with instructions, to report as follows:

As shown by the official record, Allen S. Thatcher was enrolled September 3, 1861, for 3 years, as a private in Company E, Ninth Indiana Volunteers, and borne on the rolls as of that grade and properly accounted for until October 1, 1862, when he deserted on that date at Louisville, Ky.

On April 11, 1863, he enlisted in violation of the twenty-second, now fiftieth, arti-

cle of war, in Company K, Third Michigan Cavalry, and he served in that regiment until February 12, 1866, when mustered out with Company E, to which he had been transferred.

In his application of August 20, 1883, Thatcher states, under oath, "he was fifer of Company E, Ninth Indiana Volunteers; on the march from Nashville to Louisville his captain ordered him to carry the gun and equipments belonging to his, the captain's cook, an order with which he complied; upon arrival at Louisville, Ky., he was ordered out on inspection with the gun and equipments of the same cook. As he was company fifer he thought this was too much, he refused to obey the order, and to avoid further trouble he left the regiment."

The application was denied in the absence of any authority of law for the removal of the charge of desertion, and upon inquiry from Hon. C. C. Mattson, of August 6, 1886, as to the status of the case, he was informed on August 16, 1886, that inasmuch as the soldier's absence in desertion exceeded 3 months the case is not covered by the act of Congress approved May 17, 1836, and that the Department has therefore no power to remove the charge of desertion.

I am sir, very respectfully, your obedient servant,

J. C. KELTON,
Assistant-Adjutant General.

THE SECRETARY OF WAR.

